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ILLINOIS IN THE EIGHTEENTH CENTURY

A Report on the Documents in Belleville, Illinois, Illustrating  
the Early History of the State

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SPRINGFIELD, ILLINOIS



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ILLINOIS IN THE EIGHTEENTH CENTURY:

A REPORT ON THE

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CLARENCE WALWORTH ALVORD,

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TO THE TRUSTEES  
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ILLINOIS IN THE EIGHTEENTH CENTURY: A REPORT ON THE DOCUMENTS IN BELLEVILLE ILLUSTRATING THE EARLY HISTORY OF THE STATE.

When the county of Randolph was separated from that of St. Clair in 1795, the records of the former governments passed into the care of different jurisdictions and have suffered diverse fates. Those of legal interest to the new southern county, constituting the largest part of the official papers of the eighteenth century, remained for a time at Kaskaskia; and then were removed to Chester, where they were neglected by the county officials and many thoughtlessly destroyed, so that few documents of this period have reached a more historically interested generation.<sup>1</sup> Other records were left in the court house at Cahokia, where they remained until the year 1814, when they were deposited in the court house at the new county seat, Belleville.<sup>2</sup> The fate of the Cahokia documents has been more fortunate than that which befell the more important records at Kaskaskia; for probably the majority of the papers have been preserved, as there are in existence records dating from every period of the history of Illinois during the eighteenth century, with the exception of that of the English occupation, 1765 to 1778. At the end of this report will be found a catalog of these early documents in the various offices of the court house at Belleville.

It seems best to preface this catalog with a brief history of the institutions and the laws under which these documents originated, and also to give some account of the men who have written them. The proposed limits of the report will not include a study of political events or an analysis of the documents themselves in order to discover their evidence on the political, legal, and social conditions of the times. For this reason the documents have been little used, except in two cases. Such a study must be made, but it will be several months before it can be completed, and the desirability of an early report to the trustees of the Historical Library has determined the limits of this preliminary study.

1. Mason, *Illinois in the Eighteenth Century*, 49; Perrin, "The oldest Civil Record in the West", in *Transactions of the Ill. State Hist. Soc.*, 1901, p. 64.

2. *History of St. Clair County*, 183.



## A DOCUMENT OF THE FRENCH REGIME.

There is only one document belonging to the French period; it is a *Record of the Registrations of Donations*, kept by two successive clerks of the court in the district of the Illinois during the years 1737 to 1769 inclusive.<sup>1</sup>

In 1717, the territory of the Illinois was placed under the government of the province of Louisiana and on Sept. 20, 1721, the Western Company divided the province into nine districts, one of which was that of the Illinois.<sup>2</sup> This extended east and west of the Mississippi between the lines of the Ohio and the Illinois rivers. The district was subordinated to the provincial government, and appeal from the decision of the local court might be made to the superior council sitting at New Orleans.<sup>3</sup> The civil government of the district consisted of a commandant, a *commissaire*, a judge, a principal scrivener of the marine, a king's attorney, a keeper of the royal warehouse, a sealer of weights and measures, a clerk of the court, *huissiers*, deputy clerks, and notaries. Generally several offices were combined. For instance, in this district the duties of the *commissaire*, the judge, and the scrivener were always performed by one man; as were also the duties of attorney and keeper of the warehouse; and a notary was clerk of the court.<sup>4</sup> All civil officers were directly responsible to the intendant.<sup>5</sup> The commandant, whose military duties were the more important, was under the orders of the governor. Besides these officers of the district, the commandant of each village may have had some civil duties.<sup>6</sup>

There is a need of a much more careful study of all the sources than has yet been made, before the rather complicated machinery of the French colonial government in the Mississippi valley can be understood. The limitations of this paper, however, require only an explanation of the duties of the clerk of the court, when he registered certain kinds of donations. To understand these it will be necessary to study the legislation of Louis XIV and his successor upon the subject, since this was the law practiced in the French settlements on the Mississippi.

Since the Middle Ages the French law has divided private legal acts into two broad classes. In the first are included all agreements, acts, and deeds, which individuals make voluntarily, such as contracts, wills, donations, etc. These, therefore, are called acts of voluntary jurisdiction. In the second are placed all those acts which require the intervention of a court. The former class is under the jurisdiction of the notaries, whose engrossed copies have complete validity

1. *Registre des Insinuations des Donations aux Sieges des Illinois*, see Catalog, No. 1; Perrin, "Oldest Civil Record in the West", in *Transactions of the Ill. State Hist. Soc.*, 1901, p. 64 et seq.

2. *French Hist. Collections of La.*, III, 49-59, 101-104; Collet, in *Mag. of Western Hist.*, VIII, 268; Winsor, *Narrative and Critical Hist.*, V., 43.

3. Pittman, *Present State of the European Settlements*, 12; French, *Hist. Collections of La.*, III, 101-104; Winsor, *Narrative and Critical Hist.*, V., 43.

4. French, *Hist. Collections*, III, 49-59, 101-104; Pittman, *Present State of the European Settlements*, 53; *Edits, Ordonnances Royaux, etc.*, I., 581, art. 14, *Registre des Insinuations des Donations*.

5. The title of this officer varied; but generally he signed himself, King's Councillor, *Commissaire General of the Marine*, and Intendant. Gayarré *History of Louisiana*, II, appendix.

6. Breese, *Early History of Illinois*, 216.

without the need of an approval by a civil judge.<sup>1</sup> Provided all formalities are complied with, the notarial act is as effective as a judgment of the American court.<sup>2</sup> During the eighteenth century, others besides the notaries might draw up wills under certain conditions. This privilege was accorded the testator, the installed parish priest, and military officers; but whoever may have written them, all acts of this character were brought finally to the notaries, who were obliged by law to make and keep minutes of them.<sup>3</sup>

In order that they might exercise a needed control over the notarial acts and to prevent their loss the French kings, beginning with Francis I, (1539), promulgated laws which made compulsory the registration of certain classes of acts, among which were donations and wills.<sup>4</sup> Edict followed edict until the law of deeds, wills, and donations became so complex that a revision was necessary. Louis XIV. in his old age undertook the task, which was completed by his successor. During the first third of the eighteenth century these two kings issued a series of general laws, which regulated the writing, preservation, and registration of all acts drawn up by notaries.

The first of this series of ordinances was that of December, 1703, which systematized the law of registration and established a bureau for that purpose at each of the royal courts.<sup>5</sup> The clerk, who was charged with the duty of registration, acted as a recorder rather than as the agent of the court to which he was attached. The number of acts required to be registered was greatly increased; but it is sufficient for our purposes to note that donations and wills were still included. Several explanations of this edict followed; but the two ordinances issued in February of 1731 are of special interest, for they governed the clerk's action in keeping this record of registration in the Illinois. The first of these has not been printed; the second was a codification of the previous law of donations *inter vivos* and abrogated all former edicts, laws, and *coutumes* on the subject. Hereafter there were to be only two forms for the gratuitous disposal of property, namely, donations *inter vivos* and testaments or codicils.<sup>6</sup>

The donation *inter vivos*, before it became effective, must be accepted by the donee in person, or through attorney, or by notarial act. All such donations, with the single exception of those made by contract of marriage, were limited to property actually in the possession of the donor. There was another exception made for the same

1. Larousse, *Grande Dict. Universel*, art. *Notaire*.

2. Roy, *Histoire du Notariat au Canada*, I, 262; Brooke, *Treatise on the Practice of a Notary of England*, 8.

3. *Coutume de Paris*, art. 248; Isambert, etc., *Recueil general*, XXI, p. 292, arts. 25-37, pp. 386-402; *Edits, Ordonnances Royaux*, etc., II, 296 (interprets the law in the colonies), I., 372; Viollet, *Histoire du Droit, Civil Français*, 3d ed., 952-965. Great privileges were granted to soldiers engaged in war. Wills drawn up by priests in the Mississippi settlements received the visé of the commandant.

4. Larousse, *Grande Dict. Universel*, art. *Insinuation*; *La Grande Encyclopedie*, art. *Insinuation*; Viollet, *Histoire du Droit Civil Français*, 965-971.

5. Isambert, etc., *Recueil general*, XX, 438-441; *La Grande Encyclopedie*, art. *Insinuation*. As early as 1690, Louis XIV had issued a declaration on the subject of donations. Isambert, etc., *Recueil general*, XX, 113.

6. Isambert, etc., *Recueil general*, XXI, 343-354. The first ordinance regulated the method of registration, the fees of the clerk, etc., as may be learned from the Illinois register, in which reference to the law of February 17, 1731, was frequently made. The second was an ordinance concerning donations, a partial translation of which is printed in Appendix II. The present French law has made few changes, if any, in this ordinance. (Compare *Code Civil Français*, Bk., III, Tit. 2). On June 25, 1735, an ordinance concerning testaments was issued. Isambert, etc., *Recueil general*, XXI, 386-402.



contracts: donations to direct heirs contained in them needed no registration. This was also true of donations of movables, when there was actual delivery, and of small sums of money. All others must be registered on penalty of nullity at the nearest royal court, from which there was direct appeal to the king.

For this purpose there was kept at each royal court a particular register, which was numbered and paraphed on every page by the first officer of the court.<sup>1</sup> No vacant space between the deeds was left for fear of unauthorized interpolations. At the end of each year this register was inspected by the same officer and, if found in accordance with the law, the judge approved it, closed the register with his signature, and gave it into the keeping of the clerk. In this register there was copied the entire donation, if it were made by a separate act; or that part of any act, which contained the donation, so that reference to the notary's minute to learn the terms of the gift would not be necessary. Upon demand the clerk was obliged to give access to the book: and, if requested, to make a copy of the deed for a fixed fee.

In the register containing the registration of these donations *inter vivos*, the clerk in the district of the Illinois has also kept a record of testaments and codicils. That these must be registered has been already stated: but I have been unable to find any law permitting or ordering the registration of wills in the particular record reserved by the Ordinance of 1731 for donations *inter vivos*.<sup>2</sup> Since wills, however are only a particular kind of donation, it is probable that the clerk was following a universal custom.

Such was the French law regulating the registration of donations and of wills or codicils, and the clerk in the district of the Illinois observed this law with as much care as if he were attached to the court of the provost of Paris, at least during the earlier years. The leaves of the book were all numbered and paraphed by the judge of the district; the formulae of the registration were carefully observed; the deeds were written so that the pages were filled, even crowded. In one instance the clerk—it was the later one who was less careful—missed an eighth of a page and across this space he has drawn a line and written, "passed by mistake." The acts registered may be thus classified: 1. Simple acts of mutual donation of real and personal property, both present and to be acquired, made by contract of marriage, so that in case of the death of one, the survivor would have all the property possessed by both. These donations were to be null and void in case of the birth of a child. 2. Acts of donation by one party to the other in the contract of marriage. 3. Acts of donation by a third party to one or both of the contracting parties in a contract of marriage. 4. Acts of mutual donation *mortis causa*.<sup>3</sup> 5. Simple acts of donation by one party to another. 6. Acts of donation

1. Isambert, etc., *Recueil general*, XXI, 345-349. A paraph was a flourish of the pen under the signature, the number of the page, or words inserted on the margin. It was used to prevent falsification.

2. *Ibid.*, XX., 438-441, XXI, 401, art. 79; Larouse *Grande Dict' Univ.*, art. *Enregistments* *La Grande Encyc.*, art., *Insinuation*.

3. These were forbidden, but may have been permitted to soldiers. Isambert, etc., *Recueil general*, XXI, 393, art., 27.

in return for which the donee promised some compensation. These were generally made by aged persons in return for the promise of support. 7. Solemn wills and testaments. 8. Codicils. 9. Formal renunciation of the "community of property" by the wife.<sup>1</sup> The property, which is thus disposed of, included real estate, mortgages, notes of all kinds, state bonds, money, household and personal property, and slaves.

In the largest number of cases these acts were drawn up by a notary, generally by the notary who, as clerk of the court, registered them and received three *livres* for so doing. There are, however, a number of contracts of marriage and of wills, which were written by priests, or by the military commandant of one of the settlements, or by an officer in the army, and some wills written by the testator.

Usually the party interested in the deed brought it to the bureau of the court to have it registered, in which case the following formula was used by the clerk: "Today, the seventh day of April, 1752, there has appeared at the bureau of this jurisdiction before the clerk whose signature is below, Mr. Jean Baptiste Gouier called Champagne, inhabitant of St. Philippe, dwelling in the parish of Ste. Anne, with a copy of his contract of marriage with Miss Marie Joseph Lacroix, passed before the late Mr. Jerome Rousillet, notary, on the date, February 14, 1733." Sometimes the clerk was commissioned to make the registration, in which case he wrote after dating: "We, Bertlor Barrios, clerk at the Illinois, by virtue of the commission of Francois Lacroix to register, etc." The invariable formula at the close is this: "And after having read the said contract of marriage in our bureau, we have inscribed the said donation on the Record of the Registrations of this court in accordance with the ordinance for their preservation and validation, by reason of which, etc. Done in our bureau the day and year above written." Then followed the signature of the clerk with a paraph.

The time intervening between the redaction of an act and its registration varied considerably. Generally only a few days were allowed to pass before the parties appeared in the court to fulfill the requirements of the law. As a rule the bridegroom brought the contract of marriage, but not always; and in the case of wills the executor, after the death of the testator. At times, years elapsed before this final act of registration, as in the case of a contract of marriage dated February 17, 1726, and registered August 2, 1741. In this case the donation was made before the promulgation of the Ordinance of 1731, but it will be remembered that this ordinance did not change the existing law on the registration of donations. There were cases when a doubt arose whether an act had been registered and the party interested requested the clerk to search the record and, if necessary, to fulfill the requirements of the law. Thus, on October 25, 1741, Francois Lacroix requested the clerk to look up his contract of

1. Viollet, *Histoire du Droit, Civil Français*, 3d ed., 826-848.



marriage, which had been drawn up November 8, 1739, by M. Jerome, deceased. Since it had not been registered, the clerk recorded the fact and corrected the omission.

The first entry in the book was made on January 15, 1737, by Jean Baptiste Bertlor Barrois.<sup>1</sup> This was not the only book under his charge; for the French law required the memoranda of all acts of the court to be carefully and systematically kept. As royal notary, he was obliged to make and preserve his minutes and copy his engrossments;<sup>2</sup> as clerk of the court, he had four distinct registers;<sup>3</sup> as clerk of the marine, he was obliged to keep records in seven registers;<sup>4</sup> and as clerk of registration, he must have had a book for the registration of other acts than donations. It is doubtful whether the entries in any one of them were numerous, since his registrations of donations averaged only four a year. The entries are in various handwritings, so that probably he had the assistance of several deputy clerks in the bureau.

Barrois lived at Kaskaskia until December of 1754. He called himself clerk of the court and named this register the *Record of the Registrations of Donations at the Court of the Illinois*. Yet writers on Illinois history have generally regarded Fort Chartres as the seat of both civil and military government and, by inference, the place where the court of justice always held its sessions.<sup>5</sup> In favor of this view is Pittman's statement that the fort was the seat of government and that the commissaire's house was situated there;<sup>6</sup> the burial of the judge, Delaloire Flancour, in 1746 at the same place; the statement of Barrois that on October 25, 1741, he was requested to search the register of the late M. Jerome of Fort Chartres, whom he called both notary and clerk, for a donation in a contract of marriage, which Jerome had been expected to register.<sup>7</sup> Since this contract of marriage was drawn up by Jerome on November 8, 1739, he must have been acting as notary and clerk of the court at Fort Chartres two years after Barrois had begun his register of donations in Kaskaskia. From these facts it may be inferred that between January 15, 1737 and November 9, 1739, the judge held sessions of the court at both places, unless Barrois was acting as deputy of Jerome at Kaskaskia. It is not probable, however, that Barrois was deputy clerk of registrations, since there was no provision for such an officer in the ordinances.

But was the court at Fort Chartres continued after 1739? Pittman's testimony is only of value for the later period of the French occupation, and it is certain that the judge sat at Fort Chartres after December, 1754; for during that month Barrois left Kaskaskia, where he had continued to register acts of donation, to take up his residence at

1. The names Jean Baptiste were obtained from a contract of marriage, drawn up by Barrois in 1757, in which he appeared for the bride, his daughter Celeste. *Manuscript* in the Missouri Hist. Society's collection. In the register he called himself Bertlor Barrois. See also *American State Papers, Public Lands*, II, 217.

2. *Edits, Ordonnances Royaux*, etc., I, 217.

3. At least such was the case in Montreal. *Ibid.*, II, 386.

4. Isambert, etc., *Recueil general*, XIX., 289.

5. Mason, *Illinois in the Eighteenth Century*, (Old Fort Chartres), 23 et seq.; Moses, *Illinois Historical and Statistical*, I, 98.

6. Pittman, *The Present State of the European Settlements*, 45.

7. *De faire recherche dans les registres de feu M. Jerome vivant Greffier aux dites Illinois resident au fort de Chartres*. From the *Registre des Insinuations des Donations*, Oct. 25, 1741; see also the Appendix III, Jerome Rousillet; Mason, *Illinois in the Eighteenth Century*, 32.



Fort Chartres, as is proved by the record. Also from the few quotations from the sessions of the court made by Judge Breese we know the court was in session in 1756 at the same place.<sup>1</sup> Therefore the question concerns only the years 1739 to 1754. During this period the fort was badly in need of repair and permanent abandonment of it was contemplated.<sup>2</sup> So dangerous did the situation become in 1748 that the commandant temporarily withdrew his troops from it and concentrated his forces at Kaskaskia.<sup>3</sup> The quotations of Judge Breese from the record of the court prove it to have been in session in that settlement in 1749 and 1752.<sup>4</sup> Furthermore, on Oct. 25, 1741, the register of the clerk Jerome was in the hands of the clerk Barrois at Kaskaskia, which would not have been the case had a successor to Jerome been appointed at Fort Chartres.<sup>5</sup> The natural inference from these facts is that the civil government was moved from Fort Chartres to Kaskaskia sometime after 1739 and before Oct. 25, 1741. Still the evidence is not conclusive, for during the years 1737 to 1739 the judge probably held court at both places, and it is possible that this continued to be the case.<sup>6</sup>

The rebuilding of Fort Chartres was completed in the year 1754, and during December of the same year Barrois began to date his registrations at Nouvelle Chartres, which he continued to do up to the year 1757.<sup>7</sup> The first registry of his successor, Labuxiere, dated March 14, 1757, was an act drawn up by the notary Barrois on March 10, 1757. This is the last official act by him which is recorded in the *Registre*, so it is probable that he died between that date and March 14. If that was the case, it is strange that Labuxiere never used the phrase, the late M. Barrois; but it is possible that he was as unfamiliar with the correct phraseology as he proved himself to be with other particulars.

There is very little to be learned from the register about Bertlor Barrois, since there is no act recorded in which he was personally interested. From the contract of marriage of his daughter, Celeste Therese, in the collection of the Missouri Historical Society, we learn that he was at that time, Jan. 8, 1757, a widower, his wife's name having been Magdalen Cardinal. The church register at Kaskaskia contains the record of baptism of their son, Louis, in 1732.<sup>8</sup> In the year 1756, Magdalen Barrois, widow of Louis Marin, registered her contract of marriage. Possibly she was another daughter if her name is any evidence. When the United States government sent commissioners to these Mississippi settlements to examine the land titles, there were several heirs of Barrois living in the Illinois district.<sup>9</sup> From the same source comes information of an earlier date which

1. Breese, *Early History of Illinois*, 214-220.

2. Mason, *Illinois in the Eighteenth Century* (Old Fort Chartres), 32.

3. *Doc. rel. to the Col. Hist. of the State of N. Y.*, X, 143.

4. Breese, *Early History of Illinois*, 217 et seq.

5. *Registre des Insinuations des Donations*, October 25, 1741; see above.

6. The only objection is that the registers of the clerk Jerome were sent to Kaskaskia. There might have been some other reason for this than the one proposed in the text.

7. Mason, *Illinois in the Eighteenth Century* (Old Fort Chartres), 34; Moses, *Illinois Historical and Statistical*, I, 114.

8. "Kaskaskia Church Records," in *Transactions of the Ill. State Hist. Soc.*, 1904, p. 399.

9. *American State Papers, Public Lands*, II, 138.

proves the notary to have been an owner of land. A certain man named John Rice Jones had, in 1813, a claim for land in Kaskaskia, which he had obtained from the heirs of Catherine Placé, said to be daughter of Jean Baptiste Lebert *dit* Barrois.<sup>1</sup> The claim appeared to the commissioners of doubtful validity, because there were evidences of forgery. Upon investigation it was found that in an old record book of land titles, made in the time of Judge Louis Auguste Delaloire Flancour, there was a claim of Jean Bte. Bertlor Barrois for thirty *toises* square at Kaskaskia, granted by M. d'Artuguiette to said Barrois March 10, 1736; also two arpents of land granted by the same commandant Feb. 10, 1736. The entry of these claims was made May 21, 1742. Neither of them was the land claimed by Jones, so the commissioners made an unfavorable report, although the belief of the inhabitants of Kaskaskia seems to have been that Bertlor Barrois actually possessed land situated near that claimed by the petitioner.

Joseph Labuxiere,<sup>2</sup> the successor of Barrois, continued to keep the register at Nouvelle Chartres until the end of the French Regime. He is said to have come from Canada and to have married Catherine Vifvarenne of St. Philippe.<sup>3</sup> Of his private life little else is known. He was not so careful in conforming to the law as his predecessor, although this may have been due to ignorance. Still a general relaxing of the stricter forms of government is to be noticed throughout the settlement, a sign of which is the cessation of the annual inspection of the register by the judge after 1757. It was the period of the Seven Years War and the officials in the Illinois must have felt themselves completely cut off from the home government, the regular communication with which had formerly held them so strictly to their duties.

Although the treaty of Paris in 1763 had ceded this territory north of the Ohio river, it was not until Oct. 10, 1765, that the English took possession of Fort Chartres.<sup>4</sup> Up to that time the French officials continued to govern the district. During 1763 Labuxiere registered several deeds. In the next year there was no entry made until the autumn, when the change in the destinies of the Northwest may be read in the words: "*arreste le present journal le dix 8bre 1764, Lefebvre.*"<sup>5</sup> Two days later, however, there was occasion to open the book again to enter the last act of donation drawn up and registered by French officials on Illinois soil.

Several years elapsed before the old register was again used. Then it was to record acts drawn up on the western bank of the Mississippi river in St. Louis. There were five entries made between September 1, 1768, and June 6, 1769, by Labuxiere in that settlement. The book was still called the *Record of the Registrations of the Donations at the Court of the Illinois*. Although this seems anomalous, it is not difficult to explain. That part of the province of Louisiana,

1. *Amer. State Papers, Public Lands*, II, 216.

2. Often spelled Labussiere, or Labusciere.

3. Billon, *Annals of St. Louis*, 27.

4. *Doc. rel. to the Col. Hist. of N. Y.*, X, 1161.

5. "The present journal is stopped, October 10, 1764, Lefebvre." Lefebvre was acting judge at that time. *Doc. rel. to the Col. Hist. of N. Y.*, X, 1161.



which was west of the Mississippi, was ceded to Spain November 13, 1762; but it was not until August 18, 1769, that the Spaniards took official possession of it; and not until May 20, 1770, that their representative arrived in St. Louis.<sup>1</sup>

Meanwhile, there was need of some form of government in St. Louis, which had been founded by Laclède in 1764, just at the time when these various changes in sovereignty over the Mississippi valley were being made. As soon as the news of the cession of the eastern Illinois to the English reached the French settlements, there was an exodus of settlers to Laclède's new village across the river, so that in a year St. Louis became a more populous settlement than Kaskaskia had ever been.<sup>2</sup> Relatively only a few were left on the Illinois side. The Commandant Villiers had gone to New Orleans with most of his officers and men in June, 1764, and evidently Valentine Bobe Desclauseaux, the last officially appointed judge of the district, had followed his example; at least he disappeared from these regions. To represent the French government at Fort Chartres, until the English should take possession, there remained St. Ange de Belle Rive, Commandant; Joseph Lefebvre, Attorney General, Keeper of the Royal Warehouse, and acting Judge; and Joseph Labuxiere, Clerk and Notary.<sup>3</sup> After the deliverance of the fort to the English, they went to St. Louis, where they continued to act in their official capacity as representatives of France. The title of their government was, "The Court of the Illinois"; for the western bank of the Mississippi had always been a part of the district. On April 3, 1767, Lefebvre died. Of the civil officials of the French government in the Illinois, there remained but one, the clerk and notary. Up to May, 1770, Labuxiere performed the duties of judge, attorney, keeper of the royal warehouse, clerk, and notary; and with St. Ange represented the French government in the conveyance of the district to the Spaniards.<sup>4</sup>

Under Spanish rule Labuxiere acted as notary until Dec. 23, 1780, after which date Mr. Billon found no trace of him in St. Louis. He says: "He died elsewhere, I think at new Madrid, and left three sons, Joseph, Louis, and Francois."<sup>5</sup> From the records of the court of Cahokia, founded under the Virginia Act of 1778, the later history of Labuxiere can be traced.<sup>6</sup> By June 29, 1782, he had returned to the eastern side of the Mississippi; for the County Lieutenant Richard Winston with the consent of the court of Kaskaskia appointed

1. *Amer. State Papers, Public Lands*, II., 240; King, *New Orleans*, 107, et seq.; Ogg, *The Opening of the Mississippi*, 335 et seq.

2. Billon, *Annals of St. Louis*, *passim*.

3. *Doc. rel. to the Col. Hist. of N. Y.*, X, 1161. Mr. Billon must be mistaken in the office held by Lefebvre. He calls him civil judge, and says that later he was appointed keeper of the royal warehouse. This is a reversal of the relative importance of the offices. Probably he was never officially appointed judge, so retained the title of the lower rank in all deeds, while performing the duties of the judicial office. This was the usual course. Billon, *Annals of St. Louis*, 30, 47.

4. *Ibid.*, 31, 47.

5. *Ibid.*, 30. There was a Joseph Labussiere in New Madrid in 1806, but he was only twenty-one years old. *Amer. State Papers, Public Lands*, II, 577.

6. Catalog, Nos. 2a, 3; Mason, *Lists of Early Illinois Citizens*, *Fergus Hist. Series*, No. 31, p. 68.

him attorney for the court of Cahokia. On December of the same year he was empowered to act as notary; and on June 20, 1785, he took the oath of office as clerk of the court, a position he held until the establishment of a government by the United States over this territory in 1790. He died on April 29, 1791 and left many heirs, as is apparent from their claims to lands before the United States' commissioners.<sup>1</sup> The presence of Labuxiere in Cahokia explains how the *Record of Registrations* happens to be now in Belleville. He brought it across the river with him. Since Cahokia was not a seat of government under the French regime, there never were many official records in the archives, and all the other records of Fort Chartres were removed to Kaskaskia, when the English changed the seat of government to that village in 1772.<sup>2</sup>

There was still another official connected with the record whose duties must be explained. According to the royal ordinance the register must be numbered, paraphed, and once every year inspected and closed by the principal officer of the court.<sup>3</sup> This inspection and closing of the register in the district of the Illinois was performed in January, only once later. From 1738 to January, 1746, this duty was discharged by Louis Auguste Delaloire Flancour, Esquire (later Sieur de Flancour), Principal Scrivener of the Marine, subdelegate of M. de Salmon, (or whoever was intendant), *Commissaire* and Judge of the Civil Court in the district of the Illinois.<sup>4</sup>

The first title is not explained in the general Ordinance of the Marine by Louis XIV. in August 1681, or in the subsequent supplements to the edict, so far as I can learn.<sup>5</sup> There were *ecrivains* in the marine: but they were like our pursers and served on the ship, which they could not leave until the voyage was completed.<sup>6</sup> This Illinois official served on land and evidently was a subordinate of the *commissaire general* of the marine at New Orleans, and therefore must have had supervision of the fishing and boating interests of the district with power to judge in the first instance all disputes arising therefrom.<sup>7</sup> All officers of the civil government were connected in one way or another with the marine. As subdelegate of the intendant he was chief of the departments of justice, police, and finance.<sup>8</sup> His duties included a general oversight of all departments of civil government: but his power was not well defined and must have brought him into frequent conflict with the major-commandant. The next titles, *commissaire* and judge, probably represented one office, namely that of judge of the civil and criminal court. The law of the French colonies was that of the provosty and viscounty of Paris or to give it the better known name, the *coutume de Paris*.<sup>9</sup> Capt. Pittman who visited the settlements on the Mississippi a few years after the end of

1. Missouri Reports, IV. 343; *American State Papers, Public Lands*, I. and II, index.

2. Mason, *Illinois in the Eighteenth Century* (Old Fort Chartres), 43.

3. Isambert, etc., *Recueil general*, XXI, 349, arts. 24 and 25.

4. *Ecrivain principal de la marine, subdelegue de M. de Salmon, commissaire et tenant le siege civil de justice aux Illinois. Registre des Insinuations des Donations.*

5. Isambert, etc., *Recueil general*, XIX, 282-366; *Edits, Ordonnances Royaux*, etc., I, 360-364, 391-394, 434-436, 532-533, 546-550.

6. Isambert, etc., *Recueil general*, XIX, 306, title, III.

7. *Ibid.*, XIX, 285; Rambaud, *Histoire de la Civilisation Française* II, 244-246.

8. *Ibid.*, II, 30-34; see numerous commissions of intendants in *Edits, Ordonnances Royaux*, etc., III.

9. French, *Hist. Collections of La.*, III, 49-59, art. 15.



the French dominion has characterized this official with many offices, as, "a mere cypher rather kept for form than for real use," and his judgment has been accepted by more recent writers.<sup>1</sup> Remembering the part played by the intendants in the government of France and the continual quarrels of the governors and intendants in Quebec and New Orleans, one hesitates to accept this judgment of a passing English soldier as final, unless substantiated by some convincing evidence, which up to the present time has not been produced.

The judge after inspecting the register wrote in it the following formula: "Today, the 23 of January, 1731, we (*name and titles*), having found that the present register conforms to the King's declaration of February 17, 1731, and having numbered and paraphed it, do hold it closed from this day, and have left it in the possession of Bertlor Barrois, as clerk of the jurisdiction of this court, in order that he may be able to communicate its contents to all persons who shall have an interest therein. This is all done in accordance with the above mentioned declaration. At Kaskaskia, the day and year above written, I have signed."

Flancour died in 1746, and was buried at Fort Chartres.<sup>2</sup> In January of the next year the office of judge was vacant, and the register was inspected and closed by Joseph Buchet, who was keeper of the king's warehouse and acting as royal attorney and judge.<sup>3</sup> The *garde des magazins* belonged to the department of the marine; and his duty was to maintain a sufficient supply of all necessities for the equipment of the army, and for trade with, and gifts to, the Indians.<sup>4</sup> In 1748 Buchet was still performing the duties of all the higher offices, but in the next year he signed himself Scrivener, Subdelegate, *Commissaire*, and Judge, thus announcing to us his promotion. He held the position until January 12, 1757, at least.<sup>5</sup> After that date the officials evidently became more lax in discharging their duties, for the register was never again officially inspected by the judge of the court, although the names of two men are known who acted in that capacity, John Arnold Valentine Bobe Desclauseaux, who signed a deed November 11, 1763, and Joseph Lefebvre, who accompanied St. Ange to St. Louis.<sup>6</sup>

#### THE PERIOD OF THE VIRGINIA OCCUPATION.

Up to the present time, only a few local records have been known of the period of the Virginia occupation, such as Clark's narratives and letters; John Todd's Record-Book; St. Clair Papers; and the

1. Pittman, *The Present State of the European Settlements*, 45.

2. Mason, *Illinois in the Eighteenth Century*, (Old Fort Chartres), 33; *Church Records of Ste. Anne*.

3. *Nous, Joseph Buchet, Garde des magazins du Roi aux Illinois, Procureur aux lieu vacans et de la majeste au dit lieu garde la jurisdiction royal des Illinois, le siege vacans. Registere des Insinuations des Donations*, January 16, 1747.

4. Isambert, etc., *Recueil general*, XIX, 284, art. 14. See inventory of goods in the warehouse in Billon, *Annals of St. Louis*, 47.

5. In 1756, Buchet was absent and the register was inspected by Andre Chevalier, who signed himself "Garde des Magazins, Subtreasurer, Attorney, and acting Judge in the absence of M. Buchet."

6. Billon, *Annals of S. Louis*, 31; *Doc. rel. to the Col. Hist. of N. Y.*, X, 1161.



American State Papers.<sup>1</sup> Only two of these are both contemporary and local. On account of this scarcity of sources the documents of this period at Belleville are the most interesting and valuable of all those in the archives of the court house and will illuminate an obscure period of state history. Cahokia was not a centre of government under the French and accident alone accounts for the presence there of the record which has been described; but under the Virginia dominion a court and a commandant were established in the village and the numerous documents of this government were finally carried to Belleville, where they have been preserved.<sup>2</sup> There are a few sheets of a record in the English language of a court which sat in Cahokia between the time of Clark's conquest and the establishment of a civil government by John Todd. The remaining documents are written in French with an occasional copy of an English paper. Among them is an almost complete record of the sessions of the Virginia court at Cahokia from Nov. 26, 1779, to April 1, 1790; and the register of the clerk of the same court. Besides these there are the minutes of the sessions of the court of the "justice of the week" for July 9, 1785, to Feb. 18, 1786; and about four hundred miscellaneous papers such as petitions to the court, briefs, warrants, etc.<sup>3</sup>

If the documents of this period are the most valuable, the most interesting of them is the record of the court, which held sessions immediately after the conquest in the summer of 1778; because it supplements the account of the civil government given in Clark's memoirs where is found the only notice in his writings of the organization established by him in the territory. He there says: "I inquired particularly into the manner the people had been governed formerly, and much to my satisfaction, (I found) that it had been generally as severe as under the militia law. I was determined to make an advantage of it, and took every step in my power to cause the people to feel the blessings enjoyed by an American citizen which I soon discovered enabled me to support, from their own choice, almost a supreme authority over them. I caused a court of civil jurisdiction to be established at Cahokia, elected by the people. Major Bowman, to the surprise of the people, held a poll for a magistracy, and was elected and acted as judge of the court. (Manuscript here illegible.) After this similar courts were established in the towns of Kaskaskia and St. Vincent. There was an appeal to myself in certain cases and I believe that no people ever had their business done more to their satisfaction than they had through the means of these regulations for a considerable time."<sup>4</sup>

1. *Clark's Sketch of his Campaign in the Illinois, Ohio Valley Hist. Series, No. 3; Clark's Mss.*, in the Library of the Wis. Hist. Soc.; *Clark's Memoir*, in *English's Conquest of the Northwest*, I, 457-565, and partially printed in Dillon, *Indiana*, 114-167, and *Ill. Hist. Collections*, vol. 1, *passim*; Mason, *John Todd's Record-Book, Fergus Hist. Series, No. 33*; Smith, *St. Clair Papers, Public Lands*, 2 vols.

2. See Catalog. Nos. 1, 2a, 2b, 3, 4, 5a, 6, 9. For two reasons I have discussed the document of the French period at relatively greater length than these. First it was possible to say all that is essential to be said of the register at the present time. In the second place, the documents of the Virginia period being longer and more important require a more careful study than I have been able to give them up to the present. I have therefore limited myself to using only the most apparent information contained in them.

3. *Juge de semaine.*

4. English, *Conquest of the Northwest*, I., Appendix, 484.

The new source is a record of this court at Cahokia which is written on both sides of four loose sheets of paper.<sup>1</sup> Their mutilated condition and the fact that the pages are not consecutive are evidences that they once formed part of a book in which the complete record had been kept. It was written in English by two persons, one of whom was evidently Captain Bowman and the other, Lieutenant Perrault. There are, in all, incomplete records of nine sessions of this "Court of the Committee of Cahos." The dates are as follows: Thursday, Dec. 31, 1778; Thursday, Jan. 7, 1779; Friday, Jan. 8; date lost; date lost; Friday, April 12; date lost; Friday, April 30; Friday, May 7. From one of the other documents we learn that the court was in session as early as Nov. 2, 1778, for it issued an order for a public sale on that date.<sup>2</sup> The cases brought before the court were both civil and criminal. There is no evidence of a trial by jury.

At seven of the sessions there were four judges; at one, five; at one only two. In this last case the court adjourned for lack of a quorum. The president of the court up to Jan. 7, and from the second session held in April, was Captain Bowman. The absence of Bowman from Cahokia from the middle of January to the first week in April is explained by his presence on the winter expedition made by Clark against Vincennes. He had been recalled to Kaskaskia by Clark in January to help repel a threatened attack on that place by the British and did not return to Cahokia before the Vincennes expedition. From his journal we learn that he was in Kaskaskia before Jan. 27. Clark started for Vincennes, Feb. 5 and did not begin his return journey until the last of March, so that Bowman could not reach Cahokia in time for the session of the court on April 2.<sup>3</sup> During his absence Lieutenant Perrault was president, and the record contains an account of his taking the oath of office. The judges assisting the president were not always the same; but in all the sessions the names of seven judges besides the two presidents are given. These are, Langlois, Captain Turanseau, Gratiot, Captain Trottier, Granot, Girardin, and Beaulieu. Evidently there was a bench of eight judges counting the president of the court. The number of judges, the number required for a quorum, and the weekly sessions remind us of the county court of Virginia upon which this court was obviously modeled.<sup>4</sup> Since these judges were elected by the people the first election on the soil of Illinois was not held in May, 1779, by John Todd, as has been assumed by former writers, but in the autumn of 1778 under the authority of George Rogers Clark.<sup>5</sup>

After the conquest of the northwest by Clark, the Assembly of Virginia passed in October, 1778, an act to establish a civil and military government in the territory which was christened the county of

1. Catalog, No. 5a.

2. Catalog, No. 2b.

3. *Clark's Sketch*, in *Ohio Valley Hist. Series*, No. 3, p. 76; *Bowman's Journal*, in same, 99; *Clark's Memoir*, in Dillon, *Indiana*, 161, also in English, *Conquest of the Northwest*, 1, 520.

4. Hening, *Statutes at Large*, V., 489, art. 1.

5. Mason, *Illinois in the Eighteenth Century*, 55; Boyd, "The County of Illinois," in *Amer. Hist. Review*, IV, 4, p. 628.



Illinois.<sup>1</sup> In the preamble it is stated that the government was to be temporary in character since, "On account of the remoteness of the region it was difficult, if not impracticable, to govern it by the present laws of the commonwealth." The governor was empowered to appoint a county lieutenant or commander-in-chief, who was authorized to appoint and commission deputy commandants, militia officers and commissaries, who were to serve during his pleasure. The citizens of the region were to be assembled to elect such civil officers as they were accustomed to. These were to receive their commissions from the county lieutenant and to be paid for their services as had been customary. Provided other officials were needed, they were to be appointed by the county lieutenant with the advice of the council, and drafts might be made on the treasury of Virginia to the amount of five hundred pounds for their salaries. All officials, both civil and military, were to take the oath of allegiance to Virginia and the oath of office according to the form of their own religion. In criminal prosecutions, if the defendants were found guilty, the lieutenant might grant pardons, except in cases of murder and treason. In these cases he could only suspend execution until they had been reviewed by the government of Virginia.

On December 12, 1778, Patrick Henry, Governor of Virginia, commissioned John Todd as County Lieutenant of the county of Illinois. The following passages of his letter to Todd pertain to the formation of the civil government and to the powers granted it: "Altho Great reliance is placed on your prudence in managing the people you are to reside among, yet considering you as unacquainted in some Degree with their Genius, usage and maners, as well as the Geography of the Country, I recommend it to you to consult and advise with the most inteligible and upright persons who may fall in your way."

\* \* \* \* \*

"and I know of no better Gen'l Direction to Give than this that you Consider yourself at the head of the Civill department and as Such having the Comm'd of the militia untill ordered out by the civil Authority, and to act in conjunction with them."

\* \* \* \* \*

"You are on all Accatons to inculcate on the people the value of liberty and the Difference between the State of free Citizens of the Commonwealth and that Slavery to which Illinois was Destined. A free and equal representation may be expected by them in a little Time, together with all the improvmt<sup>s</sup> in Jurisprudence and police which the Other parts of the State enjoy."

\* \* \* \* \*

"The Ditails of your Duty in the civil Department I need not give you, its best Direction will be found in y<sup>r</sup> innate love of Justice and Zeal, to be intencively usefull to your fellow-men. A general Direction to act according to the best of y<sup>r</sup> Judgment in cases where these Instructions are Silent and the laws have not Otherwise Directed is

1. Hening, *Statutes at Large*, IX, 552-555; printed also in Appendix IV.

given to you from the necessity of the case, for y<sup>r</sup> Great Distance from Governm<sup>t</sup> will not permit you to wait for Orders in many Cases of Great Importance."<sup>1</sup>

In May, 1779, Todd reached Kaskaskia. His first duty was to attend to the appointment of militia officers. In most cases he confirmed the appointments made by Clark in Cahokia: for Commandant Trottier and Captain Turanjeau of his list of officers bear the title of captain in the record of Clark's court.<sup>2</sup> On the other hand Perrault, who was lieutenant and justice under Clark, received no office under the new government.

The act of the Virginia assembly required the election of officers, "for the preservation of peace and the administration of justice," such as the inhabitants were accustomed to.<sup>3</sup> Did Todd follow his instructions in this particular? The inhabitants had experienced within recent years both French and English judicial institutions, either of which he might have followed and remained within both spirit and letter of the act. The former had consisted of one judge who tried both civil and criminal cases without the assistance of a jury. The English court had been created by a proclamation of Colonel Wilkins on November 21, 1768, which was issued in accordance with a letter of instructions from General Gage.<sup>4</sup> This court was composed of seven judges and was held every month at Fort Chartres. At most it had jurisdiction only over civil cases and very probably it was limited to actions for debt and the trials were held without jury.<sup>5</sup> What change, if any, was made in the character of the court by the "Quebec Act" of 1774, which subordinated the territory north of the Ohio river to the government of Canada, I do not know: but as the British troops were withdrawn from the Illinois in the spring of 1776, leaving a Frenchman, Rocheblave, in charge, there was practically no time to inaugurate a radical change.<sup>6</sup> Under Philippe de Rocheblave whatever order had been introduced into the department of justice by the English commandant disappeared. Certain English merchants complained that he acted against them in the dual capacity of attorney

1. *Cal. of Va. State Papers*, I., 312 et seq.; also in Mason, *John Todd's Record-Book Fergus Hist. Series*, No. 33, pp. 159-164.

2. *Ibid.*, 164.

3. Hening, *Statutes at Large*, IV, 553; appendix IV.

4. I have been unable to find either proclamation or letter, nor have I seen a reference as to where they may be found. The accounts in the various histories quoted below show such a striking similarity that they must have been derived from a common source. This may of course be the original documents. Brown, *History of Illinois*, 213; Davidson and Stuvé, *A Complete History of Illinois*, 165; Moses, *Illinois Statistical and Historical*, I, 140; Dunn, *Indiana*, 78.

5. Moses, *Court of Enquiry at Fort Chartres*, 292. In this account, which differs from the generally accepted one, Moses has drawn his information from the statement in a letter of Ensign George Butricke, who was stationed at Fort Chartres at this period. Speaking of Colonel Wilkins he wrote: "He has now granted commissions of the peace to several people, both French and English: of these he has formed a court of judicature, who are allowed to determine on all causes of Debt without a Jury. How this may answer with the laws of Great Britain I will not pretend to say. He has appointed Mr. George Morgan president of this court which has given great offence to all the French inhabitants in the colony, he being universally hated by all those people." *Hist. Magazine*, VIII, 262-270.

6. Houston, *Constitutional Documents of Canada*, 90; Coffin, *The Province of Quebec and the Early American Revolution*, Univ. Wis. Bulletin, I., 276 et seq.; Mason, *Philippe de Rocheblave and Rocheblave Papers*, *Fergus Hist. Series*, No. 34, p. 237; "Clark and the Kaskaskia Campaign Documents", in *Amer. Hist. Review*, VIII, 492.



and judge; and Rocheblave explained that persons accused of crime demanded first English and then French law according as one or the other was favorable to them. From these complaints it is evident that Rocheblave was acting as sole judge in both civil and criminal cases and that the English bench of seven judges no longer existed.<sup>1</sup>

Although a reversion to the older French procedure had apparently taken place, still Todd might have urged the previous use of the English court as a justification for ignoring the French model; for the inherent dislike of Americans for the one-man rule would have debarred that kind of a court, even if there had been anyone in the county capable of performing the duties of judge. It is reasonable to suppose that the English residents, such as Daniel Murray and Richard Winston, must have thrown the weight of their influence against the reinstatement of the French tribunal.<sup>2</sup>

Todd apparently gave little attention to either of these earlier courts; for there were in existence judicial institutions with which he was familiar, even if the inhabitants had not yet become accustomed to them. These were the courts founded by Clark in the three villages. As has been said, they were modeled after the county court of Virginia: an institution which both Clark and Todd had helped to introduce into Kentucky, just previous to starting on the expedition to the Illinois.<sup>3</sup> The county government of Virginia consisted of the county lieutenant, the court, and the minor officials. The court, which had both civil and criminal jurisdiction, was composed of the justices of the peace, and held monthly sessions.<sup>4</sup> The most important differences between the institution as it was founded in Illinois and its prototype were the election of the justices by popular vote and the existence of three courts in one county. The first of these differences was established by the Virginia assembly, and the second was due to the distances between the villages. Eleven years later Governor St. Clair was obliged to adopt a similar expedient for the same reason.<sup>5</sup> But in both cases the judicial institutions thus created were town rather than county courts.

Nine justices of the peace were elected in Kaskaskia, and seven in each of the villages of Cahokia and Vincennes.<sup>6</sup> In Cahokia, at least, elections were regularly held until 1789. During the first few years the formality of taking the oath of office took place on June 19.<sup>7</sup> The observance of this date, which was so religiously adhered to, leads me to believe that it was the anniversary of the inauguration of the first popular government in Illinois by John Todd. Interesting as would be the determination of the date of this event in the history of the

1. Mason, *Philippe de Rocheblave and Rocheblave Papers*, *Fergus Hist. Series*, No. 34, pp. 257, 262.

2. *Ibid.*, 289. Rocheblave called both of them Englishmen.

3. Roosevelt, *The Winning of the West*, I, 320-322; *Clark's Memoir*, in Dillon, *Indiana*, 115-119. Todd's presence in the campaign has been questioned. English, *Conquest of the Northwest*, I, 253. But see Mason, *Illinois in the Eighteenth Century*, 51.

4. *Statutes at Large*, V., 45; Howard, *Local Constitutional History of the U. S.*, 88-97; Chan-ning, *Town and County Government*, *J. H. U. Studies*, 11, 45.

5. Smith, *St. Clair papers*, II, 172.

6. *Juge de Paix*.

7. Record of the court at Cahokia.



state, the evidence is not sufficient to give more than a probable result. It is known that Todd appointed the militia officers in Cahokia on May 14, 1779, and about the same time must have announced the election of the civil offices.<sup>1</sup> Law and common usage would have required that some time elapse after the proclamation before proceeding to the election, so that, with preparations and delays, it might well have been June 19 before the new government was installed. The "cherif" was for a few years also elected by popular vote; but later he was named by the court, as were the clerk and bailiff (*huissier*) from the beginning.<sup>2</sup>

The court held a session regularly every month. Usually one day was sufficient for the transaction of all legal business; but occasionally there were adjournments to the next day and also extraordinary meetings during the month. For the interim the court appointed one of its members *juge de semaine*, whose duties were similar to the Virginia justice of the peace. Without a careful study of the record, it will be impossible to pass judgment upon the law in use; but there is no reasonable doubt but that in most cases the French law was followed, although at times the English procedure and probably the law were used. There are several instances of trial by jury, the first occurring in 1780.<sup>3</sup> In this first case the eight jurors were illiterate Frenchmen and made their marks. In the registration of deeds the same formulae were employed as in the register of the French court described above.<sup>4</sup>

The government thus established was soon left to its own guidance without interference on the part of Virginia. John Todd had decided as early as Aug. 17, 1779, to ask to be relieved of his office, and he remained in Illinois only until the end of the year. On Dec. 23, he wrote Governor Jefferson from the "Falls of the Ohio," evidently having left his post. Jefferson desired him to reconsider his decision; but there is no evidence that he ever returned or that a successor was officially appointed. The other officials of the county continued to regard him as the head of the government until October, 1780, as is proved by their letters to him.<sup>5</sup> After that date communication between the east and Illinois was only intermittent. The legal condi-

1. Mason, *John Todd's Record-Book*, *Fergus Hist. Series*, No. 33, p. 164.

2. 19 Juin 1780

Pres. Capt. Trottier  
Ch. Gratiot  
Michel Beaulieu  
Antoine Girardin  
Pierre Martin  
Bpte. Saucier

*La cour assemble*  
Joseph Lepage, J. Bpte. La Croix, Clement Langlois, Ch. Duchesne, Fr Coures, Philippe Jervais. Antoine Armant comme ayant ete nome par une assemble public dimanche dernier 18 du curant dans la maison de M. Fr. Trottier Cap. Commandant la milice des Cahokios pour prendre lieurs place comme en qualite de juge de paix, etc.

Les suivant juges mentiones en l'autre part par la derniere election faite out prie le serment de fidelite aux Etats ainsi que celui de juge de Paix etc. selon leurs liste a l'exception de Joseph Lepage absent.

La cour a ordonne que Fr. Saucier soit appointe clark de la cour.

(There followed the oaths of clerk and bailiff.)

Jean Bte. Hubert la Croix a remi a le cour la commisston de Cherif.—From the record of the court at Cahokia.

3. If juries were not used during the English period, as appears to have been the case, this was the first recorded jury trial in the territory of the present state of Illinois.

4. Here is an example from the clerk's register: *Se requerant la dite Marie Aubuchon insinuation du dit testament lecture faite de celui en notre greffe nous l'avons insinue et enregistre sur la registre des insinuation de la siege suivant l'ordonnance pour servir et valoir ce que de raison dont act le dit jour et an.*

5. Mason, *John-Todd Papers*, *Fergus Hist. Series*, No. 33, pp. 157, 189, 206, 211, 227, 229.

tion of the government of the country became anomalous, for the Virginia Act of 1778 establishing the county was to remain in force only for twelve months and thereafter until the end of the next session and no longer. In May, 1780, the act was continued by the assembly for a similar period, and was not renewed.<sup>1</sup> "The statutory organization of Illinois expired, therefore in 1781, and from that time until the passage of the ordinance of 1787, there was no government resting upon positive provisions of law in the territory northwest of the Ohio river."<sup>2</sup>

The reason for this cessation of Virginia's interest is to be found in her negotiations with the United States' government in regard to the cession of this territory to the latter. A bill to that effect was passed by the Assembly as early as Jan. 2, 1781, but the business dragged through several sessions of the United States congress, and it was not until March 1, 1784, that the official cession was completed.<sup>3</sup>

This transfer of sovereignty made no immediate change in the form of government or in the political condition in Illinois.<sup>4</sup> The isolation of the county was only occasionally broken. In 1783, there were in the county Virginia commissioners, who reported that the greatest confusion prevailed for lack of proper government.<sup>5</sup> The French also made several attempts to arouse either Virginia or the United States to take some action in their behalf. In the register of the clerk of the court of Cahokia there is an account of an assembly of the inhabitants called by the commandant April 3, 1781, at which Pierre Provost of Kaskaskia was appointed to represent them in Virginia, and, if necessary, at the congress of the United States. Later in 1783, M. Carboneaux was sent to Virginia on a similar mission. He reported that the magistrates through neglect of their duty had lost all control, that murderers were unpunished, and that certain persons were establishing themselves as lords of the soil.<sup>6</sup> The same representative afterwards carried his complaint to congress and on Feb. 21, 1785, that body determined to send commissioners to Kaskaskia; but there is no evidence that any further action was taken.<sup>7</sup> In the summer of 1786, the inhabitants of Kaskaskia again petitioned congress for a government. The reply was that it had, "under consideration the plan of temporary government for the said district and its adoption will be no longer protracted than the importance of the subject and a due regard to their interest may require."<sup>8</sup> The next year Gen. Harmer visited the district and stopped some of the abuses such as land grabbing.<sup>9</sup> The government promised by congress was not established in Illinois until the spring of 1790.

1. Hening, *Statutes at Large*, IX, 555, X, 308; Appendix, IV.

2. Boyd, "The County of Illinois," in *Amer. Hist. Rev.*, IV, No. 4, 625.

3. *Journal of Congress*, VIII, 199, 203, 233, IX, 47-51; Hening, *Statutes at Large*, XI, 571-575.

4. *Journals of Congress*, IX, 47-51.

5. *Draper Collection, Clark Mss.*, LX, *Illinois Papers*, No. 3, 52. This is a copy of a document in the office of the Auditor of Public Accounts of Virginia.

6. *Ibid.*, No. 3, 1-4. This is only an extract from the original document; Roosevelt, *The Winning of the West*, II, 185.

7. *Journals of Congress*, X, 45; Boyd, *County of Illinois*, in *Amer. Hist. Rev.*, IV, 634, note 2.

8. *Journals of Congress*, IV, 688.

9. Smith, *St. Clair Papers*, II, 32; *Amer. State Papers, Public Lands*, I, 10.



Left to themselves it is not strange that the needs of society required of the institutions, created under the Virginia Act, other and more complex duties than had been originally intended; and in the difficulties of the people struggling with the problem of self government, is found sufficient cause for extending the limits of power belonging to court and commandant. These limits had been, at best, very indefinite, as a reading of the original act and the instructions of Patrick Henry show. In each of the villages, Kaskaskia, Cahokia, and Vincennes, was a commandant and a court with other officials. Over these was the county lieutenant. On his departure, Todd apparently appointed Richard Winston as his deputy. That he regarded Winston as next in command is proved by his letter in which he delegated to him the chief command during a temporary absence.<sup>1</sup> Demunbrunt, in his memorial to the governor of Virginia, in December, 1791, stated that "when Col. Winston was appointed to the command of the county of Illinois," the "said colonel" commissioned him as commandant of Kaskaskia.<sup>2</sup> The title of colonel was that borne by the county lieutenant. Additional evidence is found in the register of the clerk of the court, where there is a letter from Winston in which he signed himself, County Lieutenant.<sup>3</sup> This letter was dated June 29, 1782. When he ceased to act as head of the government does not appear from any of the records.

On the authority of Governor St. Clair's statement that after Todd's departure, "a person by the name of De Numbrun was substituted," it has been generally believed that Demunbrunt acted at some time in the capacity of county lieutenant; but he clearly stated in his memorial to the Governor of Virginia that he had been appointed commandant of Kaskaskia by Winston.<sup>4</sup> In Todd's Record-Book there are two entries made and signed by Demunbrunt as Lieutenant Commander, which certainly is not a title corresponding to county lieutenant, but was more likely borne by the commandant of the village.<sup>5</sup> After the end of Winston's rule, probably there was no general government for the whole county, but each village controlled its own destiny. There is a hint that such was the case in the fact, that in 1783 the judges of the court at Cahokia assumed the name of magistrates, and the title of commandant of Cahokia does not appear in the record after that date. Francois Trottier, who had been appointed commandant by Todd, in the spring of this year petitioned the court to relieve him of his office temporarily, as he was obliged to leave Cahokia. Later in the record he was always called M. Francois Trottier, a significant fact.<sup>6</sup>

1. Mason, *John Todd's Record-Book*, *Fergus Hist. Series* No. 33, p. 172.

2. *Cal. of Va. State Papers*, V, 407.

3. Folio 19.

4. *Amer. State Papers, Public Lands*, I, 19; Boyd, *County of Illinois, Amer. Hist. Rev.*, IV, 631; *Cal. of Va., State Papers*, V, 407; Smith, *St. Clair Papers*, II, 169. Since writing the above I have found in the collection of the Chicago Hist. Society a document, dated 1784, signed Timothe Demunbrunt, Major Commandant.

5. Mason, *John Todd's Record-Book*, *Fergus Hist. Series*, No. 33, p. 185. Under the French the major commandant was in charge of the district, while there were other commandants in each of the villages, perhaps called lieutenant commandants.

6. Record of the court at Cahokia. The title of magistrates was, however, given to the Virginia justices. Ingle, *Local Institutions of Virginia*, *J. H. U. Studies*, III, 89.

By a careful study of the record of the court it will be possible to fill out our knowledge of the history of the period from 1779 to 1790, which up to the present time, owing to the scarcity of sources, has been very fragmentary. A superficial examination of the sessions shows that the court exercised many sovereign powers, some of which belonged legally to it, while others may have been assumed from necessity or from the desire for gain. Instances of such administrative acts are numerous. The court summoned assemblies of the people; issued proclamations and passed resolutions, all the judges signing the record on such occasions; fixed its own fees, which were not excessive, since the schedule followed closely that of the French court. Such acts probably did not exceed the limits of power accorded any Virginia county court, or the authority specially granted to that at Cahokia. Todd had been instructed by Governor Henry to consult with the most intelligent of the inhabitants, and he had probably permitted the courts to decide all local questions. This power they continued to exercise after his departure.<sup>1</sup> The principal abuse of power, charged against these courts of Illinois, was that they granted titles to land. This they unquestionably did, and were probably guilty of many frauds. The judges at Vincennes pleaded ignorance as an excuse for their action. They said that after the departure of Todd the commandant assumed that he had the same rights as were exercised by the French commandants and granted this privilege to the court.<sup>2</sup> The French commandant with the counsel of the civil judge did possess the power of granting land to the settlers, as is shown by the numerous claims based upon such grants in the volumes devoted to the public lands in the American State Papers. Their authority for so doing was delegated to them by the governor and intendant of the province of Louisiana.<sup>3</sup>

That Todd had the same right was denied by Governor St. Clair. But Todd's own proclamation and his subsequent action prove that he believed that the discretionary power given him included also this authority. In the proclamation of June 15, 1779, he prohibited all persons from making new settlements upon the bottom lands, except in the manner practiced by the French. The proclamation was made, because he feared an inrush of speculators; so he refused to allow settlements except in the long narrow strips of the French grants, which stretched from the river to the bluffs.<sup>4</sup> Later Todd gave land to the settlers at the new post, which was erected at the junction of the Mississippi and Ohio rivers, and asked the assembly of Virginia to settle the price saying nothing about the confirmation of titles.<sup>5</sup>

If Todd believed himself empowered to dispose of land titles in this manner, there is nothing strange in the fact that Winston, who was his delegate and successor, should have acted as if he had the same authority. But after 1782 there is no evidence that Winston or anyone else held the office of county lieutenant.<sup>6</sup> What authority,

1. Mason, *John Todd's Record-Book*, *Fergus Hist. Series*, No. 33, pp. 154-164.

2. Roosevelt, *The Winning of the West*, II, 181; *Amer. State Papers*, *Public Lands*, I, 10, 18.

3. *Ibid.*, I., 10, 16; *Edits. Ordonnances Royaux*, etc., 1, 572-574, 590.

4. *Amer. State Papers*, *Public Lands*, I, 18; Mason, *John Todd's Record-Book*, *Fergus Hist. Series*, No. 34, p. 171; Roosevelt, *The Winning of the West*, II, 171.

5. *Cal. of Va. State Papers.*, I, 358.

6. See page 21, note 4.



except that of the courts and possibly of the local commandant, remained in the county to regulate the occupation of the land? And there was need that authority be exercised, for the conditions were rapidly changing. Americans were crowding into the territory; 103 settled in Vincennes and a larger number in Illinois before 1787.<sup>1</sup> They even forced themselves into the government, the names Philip Engel and Thomas Brady appearing on the list of judges at Cahokia in 1785. On account of these conditions and since the United States delayed, the courts assumed the authority, which circumstances forced upon them. After the first grants, there was no hesitation and many frauds were practiced. That the magistrates believed, as those of Vincennes declared, that they were acting within their authority seems reasonable. But certainly the delegation of power from Todd to the courts had been stretched beyond the utmost limits.

With the two exceptions, Brady and Engel, the court was, and remained from beginning to end, French in its personnel. There was no law against re-election and generally one or two magistrates of the preceding year were re-elected; but no name appears for many successive years except that of Philip Engel, who remained judge from 1785 to 1790. The first clerk was Francois Saucier, who was succeeded in 1785 by Joseph Labuxiere, of whom mention has already been made. For some reason he failed to be re-appointed in 1788; but the successful candidate, Pierre Billet, served only a few months, when Labuxiere was recalled to the office which he retained until the coming of Governor St. Clair.

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1. Roosevelt, *The Winning of the West*, III, 235, note 1.

DOCUMENTS OF ILLINOIS UNDER THE DOMINION OF  
THE UNITED STATES, 1788-1818.

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The next group of documents falls in the period between the organization of the northwest by Governor St. Clair and the establishment of Illinois as a state in 1818. Since there are numerous other sources for the history of this period, the Belleville documents do not contain much of general interest. For this reason and because the report is already long, I have limited myself to indicating the course of events without further discussion. For a list of the documents reference may be made to the catalog.

The government of the Northwest Territory was organized 1788; but it was not until March 5, 1790, that St. Clair reached the Illinois and put an end to the French court. This held its last session April 1, 1790 and adjourned to May 3, a date it was not destined to keep: because St. Clair, on April 27, 1790, established St. Clair County, which included the southwest part of the present state between the Illinois and Ohio rivers.<sup>1</sup> Since the French villages were so far apart, the Governor divided the county into three districts, "though not strictly warranted by law", and the "judges of the peace" were so distributed that the courts could be held in each, while the judges of probate, the prothonotary of common pleas, and the clerk were instructed to appoint deputies to act in two of the districts.<sup>2</sup> Later, in 1795, Randolph county with Kaskaskia as county seat was separated from St. Clair, Cahokia being the chief place of the latter.

One of the most serious difficulties confronting the new government was the question of land titles. The whole subject of land grants under the French, English, and Virginia dominions was investigated, but it was not until the first of the nineteenth century that it was finally adjusted.<sup>3</sup>

In the year 1800, the Northwest Territory was divided into Ohio and the territory of Indiana which included Illinois. Finally in 1809 this was again divided, Illinois territory including the district west of the line reaching from the Wabash, "due north to the territorial line between the United States and Canada."

1. Greene, *The Government of Illinois*, 14; Moses, *Illinois Historical and Statistical I.*, 196; Smith, *St. Clair Papers*, II, 165.

2. *Ibid.*, II, 172.

3. *Amer. State Papers, Public Lands*, I, and II; *U. S. Statutes at Large*, II, 337.

The relative paucity of documents of these years is very surprising, and I have found no adequate explanation. With the exception of the records of deeds and of wills, with a record of the court of common pleas for a few months during the years 1795 and 1796, there has been preserved almost nothing of interest before the year 1808. After that date the documents are numerous and all offices show complete records from the time Illinois was admitted as a state in 1818.

CATALOG OF THE OLDEST DOCUMENTS IN THE COURT HOUSE  
AT BELLEVILLE.

In this catalog I have described the documents as they were previous to my visit to Belleville. Since that time, the documents in the office of the circuit clerk have been bound in a uniform black cloth binding with leather corners and back. What has been done with the loose and unclassified papers in the county treasurer's office (No. 12 of the catalog), I do not know. A recommendation was made to the supervisors that these be arranged in order and deposited in a safer place. Some explanation of the cause of such combinations of documents in the same binding, as in the case of No. 5, is needed. These documents were in the greatest confusion, when I first saw them. Without a premonition that my arrangement was to be regarded as final, I assorted them and placed, for their better preservation, the loose sheets and the smaller documents with others of similar size. The binder has perpetuated these accidental unions. For the same reason the *Extrait des Registre de la Jurisdiction des Cahos* has been dignified with some parchment covers, which were without contents until I placed this clerk's register within them, because it fitted.

OFFICE OF THE CIRCUIT CLERK.

1. *Registre des Insinuations des Donations aux Sieges des Illinois*, January 15, 1737—June 26, 1769.  
Bound in parchment; size, 13½ by 8½ inches; pages, 146; blank pages, 1; last page missing; water-mark, shield with *fleur-de-lis*, surrounded with scroll; 122 registries; language, French; on first cover *Insinuations* is spelt *Insinutions*, but it is corrected on the back cover.
2. a. Record of the court at Cahokia. November 26, 1779—April 1, 1790.  
Unbound; made up of six record books sewed together; size varies, but it is about 12½ by 8 inches; pages, 348; blank pages, 48; several pages missing; various water-marks; no name to document; language, French.
- b. Record of public sales. November 2, 1778—June 22, 1782.  
Unbound; pages, 50; blank pages, 10; water-mark, DURHAM; no name given to document; language, French.
3. *Extrait des Registre de la Jurisdiction des Cahos*. December 12, 1778—October 28, 1788.  
Originally bound in flexible paper cover, it was placed by me in the parchment covers in which it is now bound; size, 15 by 9½ inches; pages, 58; blank pages, 4; pages numbered Folio 5, etc.; language, French, but there are a few English deeds and letters; it is the register of the clerk of the court acting as recorder.



4. *Registre des audiences par(?) Le juge de Semaine comence Le 9 juillet 1785 et reforme Le 14 ferrier 1786 a la Cour tenue le d' jour.*  
Unbound; size, 11½ by 8¾ inches; pages, 20; blank pages, 4; water-mark, star and D C within oval; language, French.
5. a. Record of court at Cahokia, December 31, 1778—May 7, 1779.  
Loose sheets; size, 12½ by 8 inches; pages, 8; watermark, lion rampant holding a bunch of arrows and a standard, within a circle; language, English; no name to document.
- b. *Minutes of General Court of Illinois Territory, St. Clair County, April Term, 1811.*  
Unbound; pages, 28; language, English.
- c. Minutes of the same, September term, 1813.  
Unbound; pages, 54; language, English.
6. Settlement of the estate of M. and Mad. Charleville, 1781.  
Unbound; size, 12½ by 8 inches; pages, 58; no name to document; language, French; at the end, there is a letter in English to the court, dated July 9th, 1789.
7. *Record A. of the Court of Common Pleas of St. Clair County, October 6, 1795—April, 1796.*  
Bound in flexible paper cover; pages 90; blank pages 1; records of 43 sessions; water mark, a crown with C R below; language English.  
There are complete records of the circuit court since 1808.

## OFFICE OF THE COUNTY CLERK.

8. Record A. of the County Clerk.  
This record has been misplaced, so that I was unable to see it. It covers the period previous to 1817, and is a record of administrative proceedings.

## OFFICE OF COUNTY TREASURER.

9. About 370 unclassified legal papers belonging to the court of Cahokia, 1778-1790, in two tin filing cases.  
They are generally in French and are written on all kinds of paper, some of them mere scraps. They are requests for writs of various characters, statements of claims by petitioners, sheriff's warrants, etc. There are among them some papers of a later date.

## OFFICE OF PROBATE CLERK.

10. Entries of Letters of Administration and Testamentary, etc., issued by the Clerk of the Court of Common Pleas in Vacation as by the Law of the Territory, March 10, 1794—March 18, 1831.  
Ten years ago, the book was bound in vellum, but has since been rebound in stiff board covers and marked *Wills*. Page 153.

## OFFICE OF THE RECORDER.

11. *Record A. St. Clair Co., April 26, 1790—September 7, 1796.*  
On fly leaf is written, "By his excellency Arthur St. Clair Esquire Governor and Commander in Chief of the Territory of the U. S. North West of the River Ohio." Bound in stiff board covers; size quarto; pages 302; blank pages, several; contents, private deeds of all kinds; language French and English. There is also a copy of this record in a very clear hand-writing.
12. *Record B. March 14, 1800—March 23, 1813.*  
Bound in heavy board covers; size folio; pages 663; blank pages, several; contents, deeds of all kinds; language English.
13. A record of Land Claims under Virginia and U. S. grants, November 5, 1798. Bound in flexible covers; pages 92; blank pages 46; the book was written by John Hay and the language is English.



## RECOMMENDATION.

There are so many more important documents of the French period to be edited, that it does not seem wise to expend money on the immediate publication of the *Registre des Insinuation des Donations*. No doubt a more intensive study of the contents would yield something fruitful for our knowledge of the law, social conditions, and genealogy of the French in the Mississippi settlements. Yet the results would be more of local than general interests. For much of the analysis of the institutional conditions existing in the French colonies which is contained in this report, I would have chosen some other source than the *Registre*, had such been available; for it contains hints rather than explanations of the machinery of government. Possibly later a short study of the internal evidence with a few typical documents might be made with profit.

When we come to the documents of the Virginia period the recommendation must be the opposite. All of these documents are important and give new and valuable information on the history of the conquest of Illinois and the government of the succeeding period. Up to the present time little has been known about the courts established by Clark or in regard to the government founded by Todd. As soon as possible this material should be published. I recommend that a volume containing the record of Clark's court, selections from the clerk's register, and a full record of the court established under the Virginia act be issued. It will be unnecessary to publish all the clerk's register as many of the documents are inventories, promissory notes, and letters of local interest, typical examples of which would be sufficient for such a volume.

There is no document of the later period that is worth publication at this time, with the possible exception of Record A. of the Recorder's office. An interesting selection from these deeds might be made.

Although my report is confined to the documents of the Belleville court house, still I feel that the time and opportunity are propitious for a suggestion on the future policy to be pursued in the publication of the historical sources of the state. Up to the present, most of the American state governments and historical societies have contented themselves with a haphazard publication of documents. The longer this policy is continued, the more difficult will become an exhaustive and systematic publication of the historical sources of the states and more complicated the work of the student. It is time the American states should follow a plan for the complete publication of historical material, as the European states have been doing for the past century. The best methods for such a work have already been evolved by the Germans in the *Monumenta Germaniæ Historica* and the historians of other European states have followed their lead, so that today these students are carrying to completion the work of publication along definite lines, which were carefully mapped out years ago.

Some such plan for the exhaustive publication of the material for the history of Illinois can now be made, so that the work of future editors of documents and narratives may be directed by a general

scheme. The general outlines of such a plan will not be difficult to formulate and should be determined by a commission of historians of the state. They might decide on a purely chronological plan or better still on an arrangement of documents and narratives with reference to their character and chronology. However, before much can be done, there must be made a careful examination of the archives of the State and a bibliography of the historical material already published.

For the survey of archives, arrangements have already been made, I believe, by the Trustees of the State Historical Library and by the Historical Manuscript Commission of the American Historical Association.

## APPENDIX I.

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## APPENDIX II.

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### ORDINANCE OF FEBRUARY, 1731, CONCERNING DONATIONS.

Isambert, Decrussy, Taillandier, *Recueil general des anciennes lois françaises*, XXI., 343-356.

ART. 1. All acts of donations *inter vivos* shall be passed before notaries, and there shall be made minutes of them, on penalty of nullity.

2. Donations *inter vivos* shall be made in the ordinary form of contract and of acts passed before notaries, and all other formalities, which have been required up to the present, in the different laws, customs and usages of the land under our dominion, shall be observed.

3. All donations *mortis causa*, with the exception of those which are made by contract of marriage, shall *not* be effective, hereafter, unless they shall be made in the same form as wills and testaments, all other laws and customs to the contrary notwithstanding; so that in future there shall be only two forms of disposing of property gratuitously, one of which shall be that of donations *inter vivos*, and the other, that of wills and testaments.

\* \* \* \* \*

5. Donations *inter vivos*, likewise those which are made to the Church or for pious purposes, can be binding on the donor and be effective, only from the day they shall be accepted by the donee or his attorney, general or special. In the latter case the power of attorney shall be attached to the minute of the donation. And in case the donation should have been accepted by a person who shall have declared himself the agent of the donee, the said donation shall take effect only from the day of the express ratification, which ratification the said donee shall have made by act passed before a notary, the minute of which act shall be preserved. We forbid all notaries and *tabellions* to accept donations in favor of absent donees on penalty of nullity of said act

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15. No donation *inter vivos* can include other property than that which shall belong to the donor at the time of the donation.

\* \* \* \* \*



17. Nevertheless, we wish that donations, made by the marriage contract, in favor of the husband and wife or of their descendants, even when made by collateral relatives or by strangers, be excepted from the provision of article 15, and that the said donations, made by contract of marriage may include both present property and that to be acquired in the future, all or in part; in which case, it shall be at the choice of the donee, either to take the property, such as it is at the time of the death of the donor, and to pay all debts and charges, even those which shall have been made subsequent to the donation, or to receive only the property which existed at the time when the donation was made, and to pay only the debts and charges existent at that time.

\* \* \* \* \*

19. Donations made in contracts of marriage in direct line shall not be subject to the formality of registration.

23. In all cases, where registration is required on penalty of nullity, donations of real property or of that which, without being real, is taxed according to the law, customs or usages of the land, and do not follow the person of the donor, shall be registered, on penalty of nullity, at the bureau of the bailiwick, or of the royal seneschal's court, or of other royal court with direct appeal to our court, of the district in which is situated the domicile of the donor, and also of the district in which the property is taxed; and in regard to personal property, likewise immovables which are not taxed and follow the person of the donor, the registration shall be made only at the bureau of the bailiwick, or of the royal seneschal's court, or of other royal court with direct appeal to our court, of the district in which is situated the domicile of the donor. We forbid all registration in other jurisdictions or in courts of seigniors, even in those of peers; and in case the donor's domicile is situated in such a jurisdiction, the registration shall be made at the bureau of the court which has the cognizance of royal cases in the district where the domicile is and where the property is situated, all on penalty of nullity.

24. In the future, there shall be in each bailiwick or royal seneschal's court a particular register, which shall be numbered and paraphed on each leaf by the first officer of the court, and closed at the end of each year by the said officer; in which register there shall be written the entire act of donation, if it is made by a separate act, if not, the part of the act which shall contain the donation, its charges and conditions without omitting any of it, so that the engrossment or the effective copy of said act will be represented without need of consulting the minute.

25. The guardian of the said register shall be required to give access to it at any time without a command from the court, and to deliver to parties, upon demand, an extract signed by himself, for which he shall receive a reasonable remuneration in accordance with our regulations of the 17th of the present month.

26. When the registration shall have been made within the period prescribed by the ordinances, even after the decease of the donor or donee, the donation shall be effective from the day of its date for all persons. It may be, nevertheless, registered after the decease of the donee, provided the donor is still alive; but it shall be effective in that case only from the day of registration.

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## APPENDIX III.

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### ROYAL FRENCH NOTARIES IN THE WESTERN SETTLEMENTS.

Although the following list of French notaries in the western lands of America is far from complete, owing to the lack of available sources, it has seemed best to publish it, if for no other reason than to call the attention of local historians to the material to be found in the acts of this class of officials. A complete list cannot be made until the notarial acts in New Orleans have

been examined. Mr. Beer of the Howard Memorial Library writes me that "about sixty boxes of unexamined notarial deeds of dates mostly prior to 1800" are in the archives of the Louisiana Historical Society. And "in the city archives in the City Hall, there are at least two volumes of early date."

Jean Baptiste Bertlor Barrois,<sup>1</sup>

at Kaskaskia, January 15, 1737. to December, 1754.

at Nouvelle Chartres. December, 1754. to March 10, 1757.

Joseph Labuxiere,<sup>2</sup>

at Nouvelle Chartres. March 14, 1757. to October 12, 1764.

at St. Louis, 1765, to May 20, 1770.

Leonard Billeon,<sup>3</sup>

aux Illinois, February 14, 1733, and October 25, 1736.

Jerome Rousillet,<sup>4</sup>

at Fort Chartres. February 14, 1733, and November 8, 1739.

Placé,<sup>5</sup>

aux Illinois, November 17, 1731.

Phillibert and Baumer,<sup>6</sup>

at Vincennes, the latter until 1761.

Bouvier,<sup>7</sup>

at Vincennes, August 2, 1763.

Francois Louis Cardin,<sup>8</sup>

at Michillimackinae, April 6, 1754.

Robert Navarre,<sup>9</sup>

at Detroit, May 15, 1741, to 1759.

Jean Baptiste Campean,<sup>10</sup>

at Detroit, May 15, 1758, until the end of the French regime.

Duplessis,<sup>11</sup>

at New Orleans, May 31, 1740.

Henry,<sup>12</sup>

at New Orleans, May 21, 1740.

Chantalou,<sup>13</sup>

at New Orleans, August 1, 1749.

1. *Registre des Insinuations des Donations aux Sieges des Illinois.*

2. *Ibid.*; Billon, *Annals of St. Louis, passim.*

3. *Registre des Insinuations des Donations*; Roy, *Histoire du Notariat*, I., 371. M. Roy states that he was appointed by the Lieutenant General of Montreal and was still in Kaskaskia in 1759; but I have found no record of his presence there after 1736, the year before Barrois began to act as notary.

4. *Registre des Insinuations des Donations*, October 25, 1741. I know nothing more about him than is contained in these acts. Rightly or wrongly I have identified a M. Jerome with a Jerome Rousillet, both notaries of Fort Chartres. If the identification is correct, he died between November 8, 1739, and October 25, 1741, on which date the clerk wrote of the late M. Jerome.

5. *Registre des Insinuations des Donations.*

6. Baumer succeeded Phillibert. Dunn, *French Settlements on the Wabash*, 26; Dunn, *Indiana*, 80, 99, 101.

7. He was acting as notary. *Registre des Insinuations des Donations.*

8. Roy, *Histoire du Notariat*, I., 371.

9. *Ibid.*, I., 370.

10. *Ibid.*, I., 371.

11. *Ibid.*, I., 377.

12. *Ibid.*, I., 377.

13. *Registre des Insinuations des Donations*, October 20, 1760.

## APPENDIX IV.

## ACT CREATING THE COUNTY OF ILLINOIS.

Hening, *Statutes at Large of*, (Virginia.) IX., 552-555.

AN ACT for establishing the county of Illinois, and for the more effectual protection and defense thereof.

WHEREAS by a successful expedition carried on by the Virginia militia, on the western side of the Ohio river, several of the British posts within the territory of this commonwealth, in the country adjacent to the river Mississippi, have been reduced, and the inhabitants have acknowledged themselves citizens thereof, and taken the oath of fidelity to the same, and the good faith and safety of the commonwealth require that the said citizens should be supported and protected by speedy and effectual reinforcements, which will be the best means of preventing the inroads and depredations of the Indians upon the inhabitants to the westward of the Allegheny mountains; and whereas, from their remote situation, it may at this time be difficult, if not impracticable, to govern them by the present laws of this commonwealth, until proper information, by intercourse with their fellow citizens, on the east side of the Ohio, shall have familiarized them to the same, and it is therefore expedient that some temporary form of government, adapted to their circumstances should in the meantime be established:

*Be it enacted by the General Assembly*, That all the citizens of this commonwealth who are already settled, or shall hereafter settle, on the western side of the Ohio aforesaid, shall be included in a distinct county, which shall be called Illinois county; and that the governour of this commonwealth, with the advice of the council, may appoint a county lieutenant or commandant in chief in that county, during pleasure, who shall appoint and commission so many deputy commandants, militia officers, and commissaries, as he shall think proper in the different districts, during pleasure, all of whom, before they enter into office, shall take the oath of fidelity to this commonwealth and the oath of office, according to their own religion, which the inhabitants shall fully, and to all intents and purposes enjoy, together with all their civil rights and property. And all civil officers to which the said inhabitants have been accustomed, necessary for the preservation of peace and the administration of justice, shall be chosen by a majority of the citizens in their respective districts, to be convened for that purpose by the county lieutenant or commandant, or his deputy, and shall be commissioned by the said county lieutenant or commandant in chief, and be paid for their services in the same manner as such expenses have been heretofore borne, levied, and paid in that county; which said civil officers, after taking the oaths as before prescribed, shall exercise their several jurisdictions, and conduct themselves agreeable to the laws which the present settlers are now accustomed to. And on any criminal prosecution, where the offender shall be adjudged guilty, it shall and may be lawful for the county lieutenant or commandant in chief to pardon his or her offense, except in cases of murder and treason; and in such cases, he may respite execution from time to time, until the sense of the governour in the first instance, and of the general assembly in the case of treason, is obtained. But where any officers, directed to be appointed by this act, are such as the inhabitants have been unused to, it shall and may be lawful for the governour, with the advice of the council, to draw a warrant or warrants on the treasury of this commonwealth for the payment of the salaries of such officers, so as the sum or sums drawn for do not exceed the sum of five hundred pounds, anything herein to the contrary notwithstanding.

And for the protection and defence of the said county and its inhabitants, *Be it enacted*, That it shall and may be lawful for the governour, with the advice of the council, forthwith to order, raise, and levy, either by voluntary enlistments, or detachments from the militia, five hundred men, with proper



officers, to march immediately into the said county of Illinois, to garrison such forts or stations already taken, or which it may be proper to take there or elsewhere, for protecting the said county, and for keeping up our communication with them, and also with the Spanish settlements, as he, with the advice aforesaid, shall direct. And the said governour, with the advice of the council, shall from time to time, until farther provision shall be made for the same by the general assembly, continue to relieve the said volunteers, or militia, by other enlistments or detachments, as herein before directed, and to issue warrants on the treasurer of this commonwealth for all charges and expenses accruing thereon, which the said treasurer is hereby required to pay accordingly.

*And be it farther enacted,* That it shall and may be lawful for the governour, with the advice of the council, to take such measures as they shall judge most expedient or the necessity of the case requires, for supplying the said inhabitants as well as our friendly Indians in those parts, with goods and other necessaries, either by opening a communication and trade with New Orleans, or otherwise, and to appoint proper persons for managing and conducting the same on behalf of this commonwealth.

*Provided,* That any of the said inhabitants may likewise carry on such trade, on their own accounts, notwithstanding.

This act shall continue and be in force, from and after the passing of the same, for and during the term of twelve months, and from thence to the end of the next session of assembly, and no longer.









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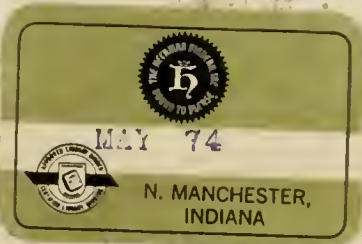








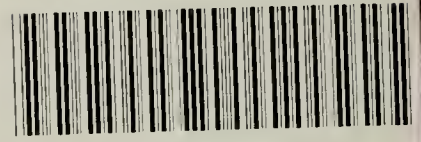




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